

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Plus 2C Contracts (MC2012-5)
Negotiated Service Agreement

Docket No CP2013-38

PUBLIC REPRESENTATIVE COMMENTS ON REQUEST TO ADD A FUNCTIONALLY
EQUIVALENT GLOBAL PLUS 2C NEGOTIATED SERVICE AGREEMENT

(January 23, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1619.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of filing a functionally equivalent Global Plus 2C negotiated service agreement.²

Prices and classifications "not of general applicability" for Global Plus 2 contracts were previously established by Governors' Decision No. 08-10.³ In Order No. 112, the Commission authorized the addition of the Global Plus 2 product to the competitive product list and determined that the Global Plus 2 contracts filed in Docket Nos. CP2008-16 and CP2008-17 should be included within the product.⁴ The Commission also determined that the Global Plus 2 contracts filed in Docket Nos. CP2009-48 and CP2009-49 should be included in the Global Plus 2 product.⁵ Subsequently, the

¹ PRC Order No. 1619, Notice and Order Concerning an Additional Global Plus 2C Contract, January 11, 2013.

² Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal. January 10, 2013. (Notice)

³ See Decision of the Governors of the United States Postal Service on the establishment of Prices and Classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, July, 16, 2008, filed as an attachment to Request of the United States Postal Service to Add Global Plus 2 Negotiated Service Agreements to the Competitive Product List, and Notice of Filing (Under Seal) The Enabling Governors' Decision and Two Functionally Equivalent Agreements, Docket Nos. MC2008-7, CP2008-16, and CP2008-17, August 8, 2008.

⁴ PRC Order No. 112, Order Concerning Global Plus 2 Negotiated Service Agreements, Docket Nos. MC2008-7, CP2008-16, and CP2008-17, October 3, 2008.

⁵ See PRC Order No. 267, Order concerning Filing of a Functionally Equivalent Global Plus 2 Contract

Commission approved the Global Plus 2A and Global Plus 2B products, and included the contracts filed in Docket Nos. CP2010-69 and CP2010-70, and Docket Nos. CP2011-41 and CP2011-42, within those products, respectively.⁶ Further, the Commission added the contracts filed in Docket Nos. CP2012-10 and CP2012-11 to the competitive product list as a new product, Global Plus 2C.⁷ The Commission determined that individual Global Plus 2C contracts may be included as part of the Global Plus 2C product if they meet the requirements of 39 U.S.C. § 3633 and they are functionally equivalent to the previously submitted Global Plus 2C contracts. *Id.* at 5-7.

In this proceeding, the Postal Service requests inclusion of a Global Plus 2C contracts within the product. *Notice* at 9. The Postal Service maintains the contract is functionally equivalent to the baseline Global Plus 2C contracts that are the subject of Docket Nos. CP2012-10 and CP2012-11 and therefore, should be added to the Global Plus 2C product grouping. *Id.* at 9.

The Global Plus 2C contract was scheduled to become effective on January 14, 2013, upon the termination of the Global Plus 2C contracts, and remain in effect until a day prior to the date in January 2013 “when Canada Post corporation institutes price changes for its domestic Lettermail, Incentive Lettermail, Admail, and/or Publications Mail products.” *Id.* at 5. However, the earliest effective date of this contract is expected to be January 25, 2013 – 15 days from the filing of the contract with the Commission.⁸ The Postal Service recognized that this timing would result in a gap between expiration of the contract and the expected earliest effective date; it therefore

Negotiated Service Agreement, Docket No. CP2009-48, July 31, 2009; *see also*, PRC Order No. 268, Order Concerning Filing of a Functionally Equivalent Global Plus 2 Contract Negotiated Service Agreement, Docket No. CP2009-49, July 31, 2009.

⁶ *See* PRC Order No. 505, Order Approving Functionally Equivalent Global Plus 2A Contracts Negotiated Service Agreement, Docket Nos. MC2010-27, CP2010-69 and CP2010-70, July 30, 2010; *see also* PRC Order No. 623, Order Adding Global Plus 2B to the Competitive Product List and Approving Functionally Equivalent Global Plus 2B Contracts, Docket Nos. MC2011-8, CP2011-41, and CP2011-42, December 23, 2010.

⁷ *See* PRC Order No. 1135, Order Adding Global Plus 2C to the Competitive product List and Approving Functionally Equivalent Global Plus 2C Agreements, PRC Docket Nos. MC2012-5, CP2012-10, and CP2012-11, January 13, 2012. Page 6-7.

⁸ Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal. January 10, 2013. Page 3. *See also* Motion of the United States Postal Service for Temporary Relief and Notice of the United States Postal Service of Filing Modification to Global Plus 2C negotiated Service Agreement, Docket No. CP2012-10, January 9, 2013.

filed a request for extension of the contract that is the subject of Docket No. CP2012-10.
Id.

COMMENTS

The Public Representative has reviewed the Postal Service's Request, the Statement of Supporting Justification (Attachment 3), and the contracts. The Public Representative has also reviewed the supporting financial models filed separately under seal for the Global Plus 2C contracts that accompanied the Postal Service's Request. Based upon that review, the Public Representative concludes that the Global Plus 2C contract is functionally equivalent to the baseline Global Plus 2C contracts subject of Docket Nos. CP2012-10 and CP2012-11.

Product Costs. Pursuant to 39 U.S.C. § 3633(a), the Postal Service must demonstrate that competitive product rates (1) do not result in market dominant products subsidizing competitive products, (2) ensure that each competitive product covers its attributable costs; and (3) enable competitive products as a whole to cover an appropriate share of the institutional costs of the Postal Service. In this proceeding, the Postal Service asserts that "the contract at issue here meets the Governors' criteria and thus exhibits similar cost and market characteristics to the previous Global Plus 2 contracts. *Notice* at 5. The financial model accompanying the Postal Service's Request indicates that the negotiated prices in the Global Plus 2C contracts should generate sufficient revenue to cover their respective costs.

Functional Equivalence. The Postal Service states that the terms of the contract are "very similar to those contracts subject of Docket Nos. CP2012-10 and CP2012-11, which serve as the baseline agreements for the Global Plus 2C product grouping. *Notice* at 6. The Postal Service state that differences exists between this contract and those of Docket Nos. CP2012-10 and CP2012-11. *Id.* The differences include name of the customer, non-inclusion of Global Bulk Economy (GBE) service, and revisions in Articles 3, 7, 12,14, 15, 18, 19, 26, 28, 31, 32, 35, and 36. The Postal Service maintains that these differences do not affect the fundamental service or structure of the contract. *Id.*

The Public Representative agrees that these differences do not alter the conclusion that the Global Plus 2C contract is functionally equivalent.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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